
FYI-103

New Mexico
Taxation and Revenue Department

FOR YOUR INFORMATION

Tax Information/Policy Office ♦ P.O. Box 630 ♦ Santa Fe, New Mexico 87504-0630

INFORMATION FOR NON-PROFIT ORGANIZATIONS

This FYI describes how to determine which federal and New Mexico tax reporting obligations are attached to various "tax-exempt" organizations and activities.

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This information is as accurate as possible at time of publication. Subsequent legislation, new state regulations, and court decisions may affect its accuracy. For the latest information please check the Taxation and Revenue Department's web site at www.tax.state.nm.us.

DEFINITIONS

Gross Receipts Tax (GRT) is a privilege tax levied on persons engaged in business in New Mexico for the privilege of doing business in New Mexico.

CRS is an abbreviation for Combined Reporting System. This is a tax reporting system that consists of state and local gross receipts taxes, withholding tax and compensating tax.

Exemptions are those receipts which are not taxable and do not have to be reported. If all the receipts of an organization are exempt, the organization is not required to register with the department unless it is required to register for another tax program.

Deductions are receipts that are not subject to tax but must be reported to the department. An organization with deductible receipts is required to register with the department and maintain proof of any deductions taken.

Nonprofit Organization is an organization which has been granted nonprofit status under Section 501(c) of the United States Internal Revenue Code (IRC). The organization is classified as educational or social. Any income that the IRS views as "unrelated business income" is subject to federal and New Mexico taxes.

"Educational" means religious, educational, charitable, scientific, literary organizations and organizations to foster national amateur sports competition, or to prevent cruelty to children or animals.

"Social" means social, recreational, booster clubs, civic and business leagues, social welfare, fraternal society, political, trade, labor, professional and similar organizations.

REGISTRATION REQUIREMENTS

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

Any organization engaged in business in the state of New Mexico is required to register with the department. Depending on the nature of the nonprofit organization and its activities, this registration requirement may not apply. An exempt entity that has no tax liabilities is not required to register, but may do so to obtain Nontaxable Transaction Certificates (NTTCs).

NEW MEXICO PUBLIC REGULATION COMMISSION

Certain nonprofit organizations that wish to incorporate in the state of New Mexico are required to register with the Public Regulation Commission (PRC). The PRC also requires biannual reports.

NEW MEXICO ATTORNEY GENERAL

All charitable organizations existing, operating or soliciting contributions in the state of New Mexico are required to register with the Attorney General and file annual financial reports. "Religious organizations" and "educational institutions," as defined by the Charitable Solicitations Act §57-22-1 *et seq.* NMSA 1978, are not required to register. Professional fund raisers who solicit contributions on behalf of charitable organizations and have custody and control of those funds are required to register with the Attorney General's Office before conducting the solicitation campaign, to be bonded and to file annual reports.

INTERNAL REVENUE SERVICE

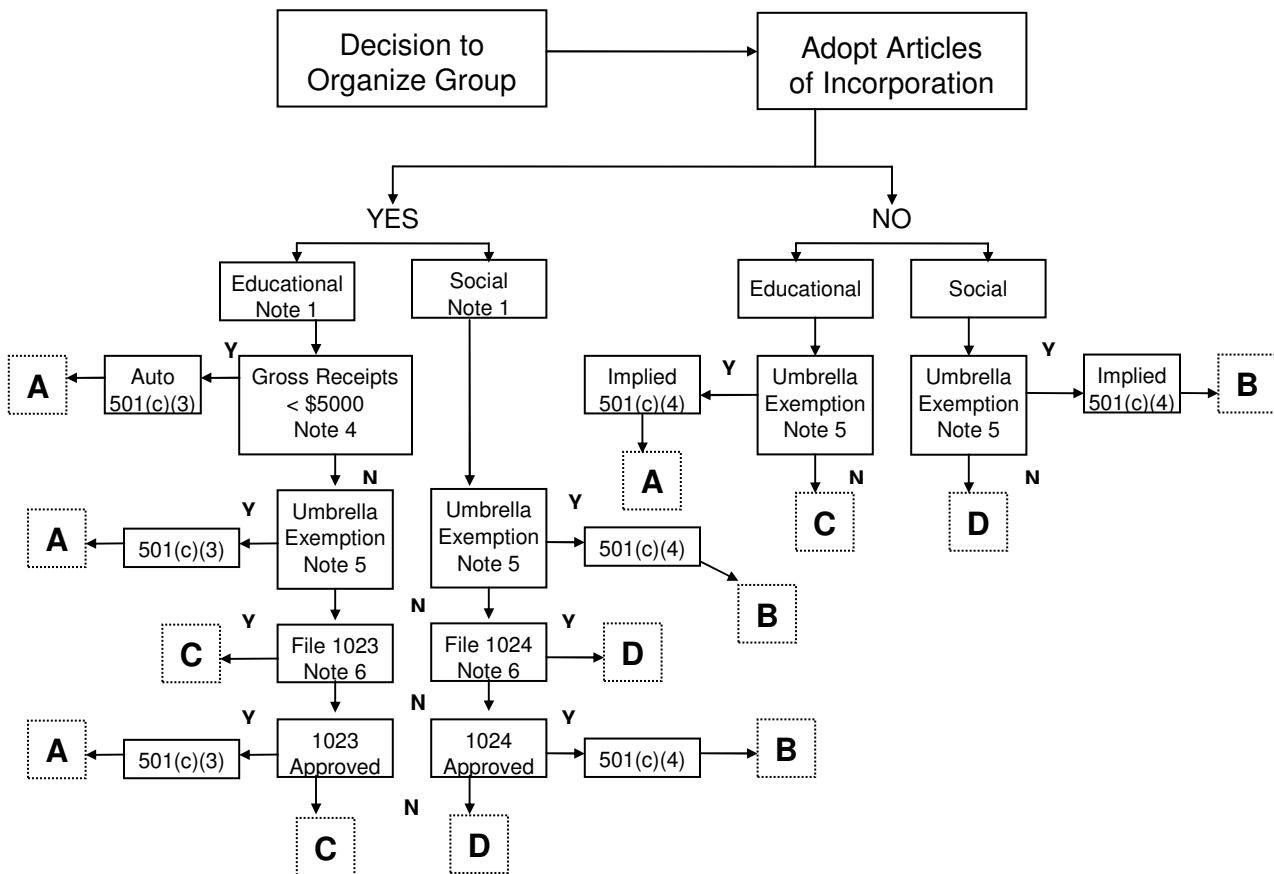
Any organization wishing to obtain nonprofit status must apply with the Internal Revenue Service (IRS) using federal forms 1023 (Educational) or 1024 (Social). Once the appropriate paperwork has been processed, the IRS will notify the organization whether the status has been approved. A nonprofit organization may have federal income tax liabilities and reporting requirements to the IRS.

INCORPORATED vs. UNINCORPORATED

Once a group has been organized, it must decide whether it wishes to incorporate in the state of New Mexico. This decision determines much of the organization's tax responsibility. To determine the benefits or consequences of incorporating, contact the Public Regulation Commission (see FOR FURTHER ASSISTANCE on page 8).

NONPROFIT ORGANIZATION TAX AND REPORTING GUIDE

If you have incorporated, you will follow either the "educational" or "social" decision line under "YES." Unincorporated organizations will follow either the "educational" or "social" decision line under "NO." Please pay particular attention to the NOTES (on page 4) associated with several of the steps because they supply additional information you will need to select the right line to follow. After you have worked through the proper YES/NO series for your particular organization, you reach a circled letter that corresponds to the circled letters on the table on page 5 of this publication. Following down the column for the appropriate circled letter will give you more detailed information on your obligations to the Internal Revenue Service, the Public Regulation Commission, and the Taxation and Revenue Department.



NOTES

- NOTE 1:** Any group conducting raffles or bingo (or similar gaming activities) should contact the Alcohol and Gaming Division of the Regulation and Licensing Department for information on registration and taxes related to those activities. The IRS considers gross income from these sources to be unrelated business income. Unrelated income is subject to the federal income tax (and thus New Mexico income tax), and, if the gross income exceeds 33% of the organization's total gross receipts, could result in the denial or withdrawal of federal tax-exempt status.
- NOTE 2:** Any group with employees will also have to register and report federal and state withholding, federal and state unemployment (FUTA/SUTA), and the New Mexico Worker's Compensation Assessment Fee. See TRD brochure *Employee or Independent Contractor?* available on our web site at www.tax.state.nm.us. Click on "publications."
- NOTE 3:** Reports may be required more frequently if withholding or compensating tax is due.
- NOTE 4:** Gross receipts test is applied annually.
- NOTE 5:** National or regional organizations together with their local affiliates, **may** be granted tax-exempt status by the IRS.
- NOTE 6:** "1023" (educational) and "1024" (social) are IRS forms to apply for tax-exempt status. Check www.irs.gov.

REGISTRATION/TAX OBLIGATION CHARTS

	A 501(c)(3) Educational Organization	B 501(c)(4) Social Organization	C Other 501(c) Organizations	D Non 501(c) Organization
INTERNAL REVENUE SERVICE				
Federal income tax on related income	None	None	All taxable	All taxable
Federal income tax on all other income	Income tax on unrelated income (bingo receipts are unrelated)	Income tax on unrelated income (bingo receipts are unrelated)	All taxable	All taxable
Reporting requirement	990 required if receipts > \$25,000	990 required if receipts > \$25,000	Taxed as joint venture - members report pro-rate on 1040	Taxed as joint venture - members report pro-rate on 1040
Reporting requirement	Disclosure of tax status required on solicitations	Disclosure of tax status required on solicitations	Disclosure of non-deductibility of contributions/ deductions required	Disclosure of non-deductibility of contributions/ deductions required
PUBLIC REGULATION COMMISSION				
Registration requirement	Yes, with incorporation	Yes, with incorporation	None	None
Reporting requirement	Bi-annual report required	Bi-annual report required	None	None
NM ATTORNEY GENERAL'S OFFICE				
Registration requirement	Yes, unless exempt as "religious organization" or "educational institution"	Yes, unless exempt as "religious organization" or "educational institution"	Yes, if the organization solicits the public for contributions and supports tax enforcement, firefighters or other public safety groups	Yes, if the organization solicits the public for contributions and supports tax enforcement, firefighters or other public safety groups
Reporting Requirement Audit Requirement	Annual financial report - yes if gross annual revenue >\$500,000	Annual financial report - yes if gross annual revenue >\$500,000	Annual financial report - yes if gross annual revenue >\$500,000	Annual financial report - yes if gross annual revenue >\$500,000

	501(c)(3) Organizations	Other 501(c) Organizations	Non 501(c) Organization
TAXATION and REVENUE DEPARTMENT			
Registration requirement	CRS registration required to report withholding and compensating tax and gross receipts tax on receipts from unrelated trade or business	CRS registration required	CRS registration required
Receipts from donations	No GRT due on donations	No GRT due on donations provided the 501 (c) performs no service and does not sell or lease property for the donation	No GRT due on donations provided the organization is a nonprofit and performs no service and does not sell or lease property for the donation
Receipts from dues & registration fees	No GRT on dues & registration fees	No GRT on dues and registration fees paid to nonprofit social, fraternal, political, trade, labor or professional organizations and business leagues	No GRT on dues and registration fees paid to nonprofit social, fraternal, political, trade, labor or professional organizations and business leagues
Receipts from fundraisers	No GRT on fundraisers	Can deduct receipts from 2 fundraisers annually	GRT due on receipts from fundraisers
All other receipts	No GRT on all other receipts EXCEPT receipts derived from unrelated trade or business	GRT due on all other receipts	GRT due on all other receipts
Purchase of tangibles for direct use in activity	No pass through GRT if Type 9 NTTC is provided to the seller	Vendor may pass through GRT - no NTTC available	Vendor may pass through GRT - no NTTC available
Purchase of tangibles for resale	No pass through GRT if Type 9 NTTC is provided to the seller	No pass through GRT if Type 2 NTTC is provided to the seller	No pass through GRT if Type 2 NTTC is provided to the seller
Purchase of services for use in activity	Vendor may pass through GRT - no NTTC available	Vendor may pass through GRT - no NTTC available	Vendor may pass through GRT - no NTTC available
Reporting requirement - Gross Receipts Tax	CRS-1 required to report gross receipts tax on receipts from unrelated trade or business	CRS-1 required	CRS-1 required
Reporting requirement - income & franchise tax	CIT-1 required only for unrelated income	CIT-1 required only for unrelated income	PIT-1, CIT-1 and pass through entity filing as appropriate

When you are in compliance, you reduce the risk of being assessed for late taxes, interest and penalties if you are selected for audit. In addition, lack of compliance with some of the federal reporting requirements can subject you personally, or your organization, to substantial daily penalties and could result in the loss of your federally granted income tax exempt status.

TAXPAYER INFORMATION

The Department offers a variety of taxpayer information. Some information is free and other information must be purchased.

General Information. FYIs and Bulletins present general information with a minimum of technical language. All FYIs and Bulletins are free and available through all local tax offices, the Tax Information and Policy Office, and on the Internet. The Taxation and Revenue Department's Internet address is:

<http://www.tax.state.nm.us/>

Regulations. The Department establishes regulations to interpret and exemplify the various tax acts it administers. The Taxation and Revenue Department regulation book is available from the New Mexico Compilation Commission on a prepaid basis. The Compilation Commission also has a compact disk of all statutes and regulations. Specific regulations are also available at the State Records Center or on its web page at www.nmcpr.state.nm.us/nmac.

Order regulation books directly from:

New Mexico Compilation Commission

<http://www.nmcompcomm.us/index.html>

Rulings. Rulings signed by the Secretary and approved by the Attorney General are written statements that apply to one or a small number of taxpayers. A taxpayer may request a ruling (at no charge) to clarify its tax liability or responsibility under specific circumstances. The request for a ruling must be in writing, include accurate taxpayer identification and the details about the taxpayer's situation, and be addressed to the Secretary of the Taxation and Revenue Department at P.O. Box 630, Santa Fe, NM 87504-0630. The taxpayer's representative, such as an accountant or attorney, may request a ruling on behalf of the taxpayer but must disclose the name of the taxpayer. While the department is not required to issue a ruling when requested to do so, every request is carefully considered.

The department will not issue a ruling to a taxpayer who is undergoing an audit, who has an outstanding assessment, or who is involved in a protest or litigation with the department over the subject matter of the request. The Secretary may modify or withdraw any previously issued ruling and is required to withdraw or modify any ruling when subsequent legislation, regulations, final court decisions or other rulings invalidate a ruling or portions of a ruling. Taxation and Revenue Department rulings are compiled and available on the department's web page free of charge at www.tax.state.nm.us. Click on "publications."

Public Decisions & Orders. All public decisions and orders issued by the hearing officers since July 1994 are compiled and available on the department's web page free of charge at www.tax.state.nm.us. Click on "publications."

FOR FURTHER ASSISTANCE

Internal Revenue Service
5338 Montgomery Blvd. NE
Albuquerque, NM 87109
(213) 894-2289 (CA)

Public Regulation Commission
P.O. Drawer 1269
PERA Bldg., Rm. 536
Santa Fe, NM 87504
(505) 827-4500

Regulation & Licensing Department
Alcohol & Gaming Division
725 St. Michael's Dr.
Santa Fe, NM 87505
(505) 827-7066

Attorney General of New Mexico
Registry of Charitable Organizations
PO Drawer 1508
Santa Fe, NM 87504
(505) 827-6693
www.ago.state.nm.us

Local tax offices can provide full service and information about the department's taxes, programs, and forms as well as specific information about your filing situation.

ALBUQUERQUE (505) 841-6200
Taxation and Revenue Department
5301 Central NE
P.O. Box 8485
Albuquerque, NM 87198-8485

LAS CRUCES (575) 524-6225
Taxation and Revenue Department
2540 S. El Paseo Bldg. #2
P.O. Box 607
Las Cruces, NM 88004-0607

SANTA FE (505) 827-0951
Taxation and Revenue Department
Manuel Lujan Sr. Bldg.
1200 S. St. Francis Dr.
P.O. Box 5374
Santa Fe, NM 87502-5374

ROSWELL (575) 624-6065
Taxation and Revenue Department
400 Pennsylvania Ave., Suite 200
P.O. Box 1557
Roswell, NM 88202-1557

FARMINGTON (505) 325-5049
Taxation and Revenue Department
3501 E. Main St., Suite N
P.O. Box 479
Farmington, NM 87499-0479

Main switchboard (Santa Fe): (505) 827-0700

This publication provides general information. It does not constitute a regulation, ruling, or decision issued by the Secretary of the New Mexico Taxation and Revenue Department. The Department is legally bound only by a regulation or a ruling [7-1-60, New Mexico Statutes Annotated, 1978]. In the event of a conflict between FYI and statute, regulation, case law or policy, the information in FYIs is overridden by statutes, regulations and case law. Taxpayers and preparers are responsible for being aware of New Mexico tax laws and rules. Consult the Department directly if you have questions or concerns about information provided in this FYI.